

§ 1003.64 Approval and denial of applications.

(a) *Authority.* The Director in his discretion shall have the authority to approve or deny an application to be included on the List of Pro Bono Legal Service Providers. The Director may request additional information from the applicant to determine whether the applicant qualifies to be included on the List.

(b) *Decision.* The applicant shall be notified of the decision in writing. The written notice shall be served in accordance with the definition of “service” set forth in § 1003.13, at the address provided on the application unless the applicant subsequently provides a change of address pursuant to § 1003.66, or shall be transmitted to the applicant electronically.

(1) *Denials.* If the application is denied, the applicant shall be given a written explanation of the grounds for such denial, and the decision shall be final. Such denial shall be without prejudice to file another application at any time after the next quarterly publication of the List.

(2) *Approval and continuing qualification.* If the application is approved, the applicant’s name will be included on the List at the next quarterly update. Every three years from the date of approval, a provider must file with the Director a declaration, under penalty of perjury, stating that the provider remains qualified to be included on the List under § 1003.62(a), (b), (c), or (d). For organizations and attorneys, the declaration must include alien registration numbers of clients in whose cases the provider rendered pro bono legal services under § 1003.62(a)(1), (b)(1), or (d)(2), representing at least 50 hours of pro bono legal services each year since the provider’s most recent such declaration, or since the provider was included on the List, whichever was more recent. Organizations must provide, for each case listed, the name of the organization’s attorneys or representatives who provided representation or other pro bono legal services, or the name of the attorney, representative, or organization the case was referred to for pro bono legal services. If a provider fails to timely file the declaration or declares that it is no longer

qualified to be included on the List, the provider’s name will be removed from the List at the next quarterly update. Failure to file a declaration within the applicable time period does not prohibit the filing of a new application to be included on the List.

[80 FR 59512, Oct. 1, 2015]

§ 1003.65 Removal of a provider from the List.

(a) *Automatic removal.* If the Director determines that an attorney on the List is the subject of a final order of disbarment under § 1003.101(a)(1), or an order of suspension under § 1003.101(a)(2), then the Director shall:

(1) Remove the name of the attorney from the List no later than at the next quarterly update; and

(2) Notify the attorney of such removal in writing, at the last known address given by the provider or electronically.

(b) *Requests for removal.* (1) Any provider may, at any time, submit a written request to have the provider’s name removed from the List. The written request may include an explanation for the voluntary removal. Upon such written request, the name of the provider shall be removed from the List, and such removal will be reflected no later than in the next quarterly update.

(2) Any provider removed from the List at the provider’s request may seek reinstatement to the List upon written notice to the Director. Any request for reinstatement must include a new declaration of eligibility, as set forth under § 1003.63(b), (c), or (d). Reinstatement to the List is at the sole discretion of the Director. Upon the Director’s approval of reinstatement, the provider’s name shall be included on the List no later than in the next quarterly update. Reinstatement to the List does not affect the requirement under § 1003.64(b)(2) that a provider submit a new declaration of eligibility every three years from the date of the approval of the original application to be included on the List.

(c) *EOIR inquiry in response to complaints.* If EOIR receives complaints that a particular provider on the List may no longer be accepting new pro bono clients, the Director may send a

written inquiry to the provider noting that EOIR has received complaints with regard to the provider's acceptance of pro bono clients and allowing an opportunity for the provider to state whether the provider is continuing to comply with the regulations in this subpart or, if appropriate, whether the provider wishes to request voluntary removal from the List as provided in paragraph (b) of this section. The Director may remove a provider from the List for failure to respond to a written inquiry issued under this paragraph within 30 days or such additional time period stated by the Director in the written inquiry.

(d) *Procedures for removing providers from the List.* The following provisions apply in cases not covered by paragraphs (a), (b), or (c) of this section.

(1) *Grounds.* A provider shall be removed from the List if it, he, or she:

- (i) Fails to comply with § 1003.66;
- (ii) Has filed a false declaration in connection with an application filed pursuant to § 1003.63;
- (iii) Improperly uses the List primarily to advertise or solicit clients for compensated legal services; or
- (iv) Fails to comply with any and all other requirements of this subpart.

(2) *Notice.* If the Director determines that a provider falls within one or more of the enumerated grounds under paragraph (d)(1) of this section, the Director shall promptly notify the provider in writing, at the address last provided to the Director by the provider or electronically, of the Director's intention to remove the name of the provider from the List.

(3) *Response.* The provider may submit a written answer within 30 days from the date the notice is served, as described in § 1003.13, or is sent to the provider electronically. The provider must establish by clear and convincing evidence that the provider continues to meet the qualifications for inclusion on the List, by declaration under penalty of perjury as to the provider's continued compliance with eligibility requirements under this subchapter, which must include alien registration numbers of clients in whose cases the provider rendered pro bono legal services under § 1003.62(a)(1), (b)(2), or (d)(2), representing at least 50 hours of pro

bono legal services each year since the provider's most recent declaration under § 1003.64(b)(2), or since the provider was included on the List, whichever was more recent.

(4) *Decision.* If, after consideration of any response submitted by the provider, the Director determines that the provider is no longer qualified to remain on the List, the Director shall:

- (i) Remove the name of the provider from the List no later than in the next quarterly update; and
- (ii) Notify the provider of such removal in writing, at the address last provided to the Director by the provider or electronically.

(5) *Disciplinary Action.* Removal from the List pursuant to § 1003.65(a), (b), (c), or (d) shall be without prejudice to the authority to discipline a practitioner under EOIR's rules and procedures for professional conduct for practitioners listed in 8 CFR part 1003, subpart G.

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§ 1003.66 Changes in information or status.

All providers with a pending application or currently on the List must notify the Director in writing within ten business days if:

- (a) The provider's contact information has changed;
- (b) Any specific limitations in providing pro bono legal services under § 1003.63(b)(4), (c)(2), or (d)(2) have changed; or
- (c) The provider is no longer eligible under § 1003.62.

[80 FR 59513, Oct. 1, 2015]

Subpart F [Reserved]

Subpart G—Professional Conduct for Practitioners—Rules and Procedures

SOURCE: 65 FR 39526, June 27, 2000, unless otherwise noted.

§ 1003.101 General provisions.

(a) *Authority to sanction.* An adjudicating official or the Board of Immigration Appeals (the Board) may impose disciplinary sanctions against any practitioner if it finds it to be in the